seem no force in arguing that where claims become fixed and so liquidated within that time, they are thereby provable, for elsewhere in the present act ample provision has been made for the liquidation of any claims by such means as the bankruptcy court may see fit to employ.[18] Hence these two decisions show a tendency toward the correct result of permitting proof of contingent claims wherever capable of liquidation, which it is to be hoped the courts will finally reach.

DOMICILE OF UNITED STATES SOLDIERS SERVING IN "FEDERAL TERRITORY." — A person *sui juris* can change his domicile only by the concurrence of residence in a place and intention to remain there indefinitely.[1] Intention connotes freedom of choice. Accordingly, prisoners confined under duress cannot acquire domiciles in prison,[2] nor can paupers in poorhouses.[3] Exiles and refugees, on the other hand, can attain new domiciles;[4] they have freedom of choice, though it is somewhat circumscribed. It would seem, therefore, that a soldier cannot acquire a domicile in the barracks or in any fort or post where he is under compulsion to serve. But a soldier whose rank or duties permit him a choice of several places for his headquarters could establish a domicile in the post he chooses.[5] It follows that the English rule that a soldier in the service of his sovereign always retains the domicile he had on entering the service, wherever he is stationed,[6] is too broad. So also the rule, apparently adopted in England, that one entering the military service of a foreign sovereign becomes domiciled in the territory of such sovereign,[7] should be nothing

[18] § 63, b. "Unliquidated claims against the bankrupt may, pursuant to application to the court, be liquidated in such manner as it shall direct, and may thereafter be proved and allowed against his estate."

[1] Munro *v.* Monro, 7 Cl. & F. 842; Mitchell *v.* United States, 21 Wall. (U. S.) 350. The word "indefinitely" is perhaps not sufficiently strong as applied to the English cases, most of which either expressly or inferentially require an intention to remain permanently. Most American courts, on the contrary, seem satisfied with an intention to remain indefinitely. See JACOBS, DOMICIL, §§ 162–174, in which the authorities are collected and commented on. See 3 Beale, CASES ON CONFLICT OF LAWS, 510.

[2] Barton *v.* Barton, 74 Ga. 761; Topsham *v.* Lewiston, 74 Me. 236; Baltimore *v.* Chester, 53 Vt. 315. See Burton *v.* Fisher, Milward, 183, 191–192. See DICEY, CONFLICT OF LAWS, 2 ed., 147.

[3] Clark *v.* Robinson, 88 Ill. 498. *Contra*, Sturgeon *v.* Korte, 34 Oh. St. 525.

[4] See DICEY, CONFLICT OF LAWS, 2 ed., 147-8; JACOBS, DOMICIL, § 285.

[5] It is so held in the analogous case of soldiers whose duties do not require them to serve in one post or barracks. See Mooar *v.* Harvey, 128 Mass. 219; Ames *v.* Duryea, 6 Lans. 155, aff'd 61 N. Y. 609. It seems that a soldier who retains his rank in the service of his sovereign, though no longer in active service, can get a domicile in the country of another sovereign. See Hodgson *v.* De Beauchesne, 12 Moo. P. C. 285, 319. A soldier on furlough may acquire a domicile in a place even though he may be called back to service at any time. Attorney-General *v.* Pottinger, 6 H. & N. 733. But see Craigie *v.* Lewin, 3 Curt. Eccl. 435.

[6] Dicey states this rule. DICEY, CONFLICT OF LAWS, 2 ed., 155. It is approved in *Ex parte* Cunningham, 13 Q. B. D. 418, 425.

[7] Dicey cautiously inserts "probably" into his statement of this rule. DICEY, CONFLICT OF LAWS, 2 ed., 155. It seems to be assumed in President of United States *v.* Drummond, 33 Beav. 449; and is made by counsel *arguendo*, and not contradicted by the court, in Somerville *v.* Somerville, 5 Ves. Jr. 750, 758.

more than a presumption of fact.[8] Unless it relates to domicile by operation of law, it assumes that every one serving in a foreign country in the foreign sovereign's army intends, if he can form an intention, to settle in such sovereign's country, which obviously may not be true. From the foregoing propositions it may be stated broadly that any soldier can form *animus manendi* in any place which he can freely leave; but there is always a strong presumption, from the character of soldier life,[9] that he does not do so.

Many United States soldiers serve in territory which, by a state's consent, the United States exclusively controls.[10] If an officer's presence at a particular United States military post is due to an exercise of his volition and an *animus manendi* is shown, where is his domicile for purposes of testamentary succession? [11] Now, where one sovereign by treaty allows another to enforce certain of its laws in a part of the former's territory, as in Shanghai,[12] a state domicile[13] acquired by residence *animo manendi* in that portion of territory is a domicile in the state of which such territory is a part.[14] Anglo-Chinese domiciles are impossible, because Anglo-China is not a legal unit; [15] it is only part of the legal unit, China, and still under its sovereignty. So it is with territory of one of our states over which the federal government is allowed control. It is part of a legal unit, the state in which it is situated; [16] hence a soldier who resides in such territory *animo manendi* acquires a state domicile in the state in which such territory lies.

Such "federal territories," then, are parts of the states wherein they are. Real territories, such as Alaska, are themselves separate legal units, each being governed substantially by its own system of law. Therefore there is no legal unit composed of all territory exclusively under federal control, and a recent case proceeding on that assumption is erroneous. Matter of Grant, 83 N. Y. Misc. 257. The deceased, after acquiring

[8] It is so treated in State, *ex rel.* Toner, *In re* Graham, 39 Ala. 454, 456. See JACOBS, DOMICIL, §§ 299, 300.

[9] See *Re* Steer, 28 L. J. (Ex.) 22, 25.

[10] Such as Governor's Island and Fort Leavenworth.

[11] Or for any other purposes depending on the law of the legal unit, — in this country, the state, — which controls such matters.

[12] Several nations, including the United States and England, now have such treaties with China.

[13] There may be domicile for different purposes. Thus it may be necessary to find whether a man is domiciled in a state, or in any one of the smaller divisions of a state, such as a county or city. Jacobs says domicile may be national, relating to nations; quasi-national, relating to legal units composing nations, such as the states in this country; and municipal, relating to the smaller divisions of legal units. JACOBS, DOMICIL, § 77. Since, however, a man's rights are fixed by the law of the legal unit in which he is domiciled, "national" domicile would seem to be, if not impossible, at least non-existent. It seems sufficient, then, at least in this country, to divide domicile into state and municipal domicile. The most important questions relate to the former, and most of the rules on domicile apply to it. Thus the rule that a man cannot be without a domicile applies to it alone; a man may be without a municipal domicile. See *In re* Craignish, [1892] 3 Ch. 180, for such a case. In England, domicile is important solely with relation to legal units, *i. e.*, domicile is understood as what is here termed "state domicile." See DICEY, CONFLICT OF LAWS, 2 ed., 93–96.

[14] Mather *v.* Cunningham, 105 Me. 326, 74 Atl. 809.

[15] See *In re* Tootal's Trusts, 23 Ch. D. 532, 538.

[16] *Cf.* Chicago, etc. Ry. Co. *v.* McGlinn, 114 U. S. 542, 547, saying that the government of Kansas extends over the Fort Leavenworth Reservation.

a domicile of choice in New York, joined the army, and was stationed consecutively in Texas, at Governor's Island in New York, in Chicago, and again, as general, at Governor's Island, where his headquarters were when he died. He intended to live in the District of Columbia after leaving the island. The surrogate held that his residence in federal territory, Governor's Island, combined with his intention to live in federal territory, the District of Columbia, gave him a domicile in federal territory, so that his estate was not subject to the New York transfer tax. It would seem that after entering the army the deceased in fact abandoned his state domicile in New York. Upon his return to Governor's Island he had not such *animus manendi* as would give him a municipal domicile there, or enable him to reacquire *in fact* his state domicile in New York. Thus the real issue raised by the facts of the principal case is whether, when in fact he abandoned New York as his domicile, his domicile of origin reverted or his domicile of choice continued, since no new domicile had been acquired. The American rule, which is certainly preferable as applied to American conditions, is that a domicile of choice continues until superseded;[17] hence the deceased was domiciled in New York at his death.

WIFE'S RIGHT TO SET ASIDE VOLUNTARY ANTE-NUPTIAL CONVEYANCES. — While early established in England that a secret voluntary conveyance, made by a woman after engagement and before marriage, might be set aside by the husband as a fraud upon his marital rights,[1] it remained for American courts to extend like protection to the dower rights of the wife.[2]

In many of the cases, where active representations concerning the fiancé's property were used to induce the marriage, the result is clear;[3] but it is probable that in England constructive fraud, based on mere passive concealment, was sufficient ground for relief,[4] and such is certainly the result of many American cases.[5] While this reasoning suggests

[17] On this point the English and American rules conflict, the former holding that the domicile of origin reverts; the latter, that the domicile of choice continues. See Udny *v.* Udny, L. R. 1 H. L. Sc. 441; Desmare *v.* United States, 93 U. S. 605, 610. For a discussion of the relative merits of the two rules, and a conclusion in favor of the American view, see JACOBS, DOMICIL, §§ 110–113, and 190–203.

[1] Carleton *v.* Earl of Dorset, 2 Vern. 17.

[2] The question has not arisen in England. But see McKeogh *v.* McKeogh, Ir. R. 4 Eq. 338, 346; 1 BRIGHT, HUSBAND AND WIFE, 357; 2 VAIZEY, SETTLEMENTS, 1587.

[3] See Rice *v.* Waddill, 168 Mo. 99, 67 S. W. 605; Hach *v.* Rollins, 158 Mo. 182, 59 S. W. 232; Swaine *v.* Perrine, 5 Johns. Ch. (N. Y.) 482; Petty *v.* Petty, 4 B. Mon. (Ky.) 215; Dunbar *v.* Dunbar, 254 Ill. 281, 98 N. E. 563; Bookout *v.* Bookout, 150 Ind. 63, 49 N. E. 824.

[4] Goodard *v.* Snow, 1 Russ. 485.

[5] Ward *v.* Ward, 63 Oh. St. 125, 57 N. E. 1095, 51 L. R. A. 858; Arnegaard *v.* Arnegaard, 7 N. Dak. 475, 75 N. W. 797, 41 L. R. A. 258; Smith *v.* Smith, 6 N. J. Eq. 515 (*semble*); Goff *v.* Goff, 60 W. Va. 9, 53 S. E. 769; Baird *v.* Stearne, 15 Phila. 339, 39 Leg. Int. 374; Chandler *v.* Hollingsworth, 3 Del. Ch. 99; Leach *v.* Duvall, 8 Bush. (Ky.) 201; Wallace *v.* Wallace, 137 Ia. 169, 114 N. W. 913. See also Babcock *v.* Babcock, 53 How. Pr. (N. Y.) 97; Pomeroy *v.* Pomeroy, 54 How. Pr. (N. Y.) 228. But see Butler *v.* Butler, 21 Kan. 521, 525; Alkire *v.* Alkire, 134 Ind. 350, 32 N. E. 571.